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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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DIANA K CHIN,
Plaintiff,
v.
MICHAEL J ASTRUE,
Defendant.

No. C 07-01015 CRB
ORDER

Now pending before the Court is plaintiff's motion for attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). After carefully considering the parties' submissions and the Court's October 31, 2007 ruling, the Court GRANTS plaintiff's motion. The Court finds that the government's defense of the issue on which the Court granted remand was not substantially justified.

The Court also finds that the amount of time incurred by plaintiff's counsel is reasonable, including the time spent on the EAJA petition.

The Court notes, however, that plaintiff was not the prevailing party on three of the four issues of error she raised in her appeal; therefore, the fees should be reduced to reflect the time spent on matters on which she did not succeed. Some of the work, however, for example, reviewing the hearing transcript and administrative record, would have had to be done whether plaintiff made one claim or four. Based on the record, the Court finds that an

1 appropriate fee is \$5000.00.

2 **CONCLUSION**

3 Plaintiff's motion for attorney's fees and costs is GRANTED. The government shall
4 pay plaintiff's counsel \$5000.00 in fees and \$84.78 in costs.

5 **IT IS SO ORDERED.**

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7 Dated: March 6, 2008



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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